

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:21-cv-121-MOC
1:18-cr-66-MOC-WCM-4**

LONNIE ALTON HENDERSON,)
)
 Petitioner,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court on Petitioner’s *pro se* “Petition to Vacate, Set Aside, or Correct Sentence” pursuant to 28 U.S.C. § 2255.¹ (Doc. No. 1).

Petitioner pleaded guilty in the underlying criminal case to possession with intent to distribute methamphetamine, and possession of a firearm in furtherance of a drug trafficking crime. He was sentenced to a total of 180 months’ imprisonment followed by five years of supervised release in a Judgment entered on April 28, 2020. (1:18-cr-66, Doc. No. 150). Petitioner did not appeal.

On April 19, 2021,² Petitioner filed the instant petition for § 2255 post-conviction relief. The Petition is insufficient to proceed in that it has not been submitted on, and does not substantially follow, the required form and it is not verified (signed under penalty of perjury). See Rule 2(c), 28 U.S.C. foll. § 2255. The Petitioner shall have **thirty (30) days** in which to file a

¹ Petitioner also cites “Article I section 15 of the Bill of Rights.” (Doc. No. 1 at 1).

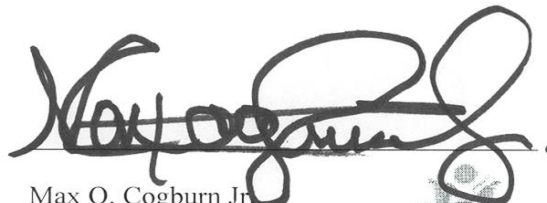
² Although the Petitioner did not certify the date on which he surrendered the Petition to prison officials for mailing, it was stamped as processed by the prison mail room on that date, and it was docketed in this Court on April 23, 2021. See generally Houston v. Lack, 487 U.S. 266, 276 (1988) (establishing the prisoner mailbox rule); Rule 3(d), 28 U.S.C. foll. § 2255 (addressing inmate filings).

superseding Amended § 2255 Motion to Vacate in accordance with this Order. See Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001). The Amended § 2255 Motion to Vacate will be subject to all applicable timeliness and procedural requirements. See generally 28 U.S.C. § 2255; Mayle v. Felix, 545 U.S. 644 (2005) (discussing relation back). Failure to comply with this Order will probably result in dismissal of this action without further notice.

IT IS, THEREFORE, ORDERED that:

1. Petitioner shall have **thirty (30)** days in which to file an Amended § 2255 Motion to Vacate in accordance with this Order and within the time limit set by the Court. If Petitioner fails to do so, this action will be dismissed without further notice.
2. The Clerk is instructed to mail Petitioner a blank § 2255 form along with a copy of this Order.

Signed: April 30, 2021



Max O. Cogburn Jr.
United States District Judge